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REMARKS

This application was originally filed on 21 December 1999 with ten claims, three of which were written in independent form. No claims have been allowed. Claim 10 was amended on 21 February 2002. Claims 11-13 were added on 17 June 2003. Claim 1 was amended on 22 March 2004.

The Examiner stated, in response to the applicant's arguments, "Nakayama teaches as shown in Fig. 11 a color display panel including dielectric layers (5, 14), and a first, second, and third X electrodes (12), that are transparent (through color filters)."

The applicant respectfully submits items 5R, 5G, and 5B of Nakayama are liquid crystal devices, item 14 does not exist in Nakayama, and the electrodes (12) cited by the Examiner is actually stated to by a cooling fan by Nakayama. The applicant respectfully suggests that perhaps the Examiner is referring to Oida *et al.*

Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,309,073 to Nakayama *et al.* ("Nakayama") in view of U.S. Patent No. Oida *et al.* ("Oida") and in further view of U.S. Patent No. 6,252,638 to Johnson *et al.* ("Johnson"). The applicant respectfully disagrees.

"A person shall be entitled to a patent unless," creates an initial presumption of patentability in favor of the applicant. 35 U.S.C. § 102. "We think the precise language of 35 U.S.C. § 102 that, 'a person shall be entitled to a patent unless,' concerning novelty and unobviousness, clearly places a burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103, see Graham and Adams." *In re Warner*, 379 F.2d 1011, 1016 (C.C.P.A. 1967) (referencing *Graham v. John Deere Co.*, 383 U.S. 1 (1966) and *United States v. Adams*, 383 U.S. 39 (1966)). "As adapted to *ex parte* procedure, *Graham* is interpreted as continuing to place the 'burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103'." *In re Piasecki*, 745 F.2d 1468 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d at 1016).

"The prima facie case is a procedural tool which, as used in patent examination (as by courts in general), means not only that the evidence of the prior art would reasonably allow the